

ORDINANCE NO. 282

AN ORDINANCE OF THE CITY OF MALIBU REPLACING CHAPTER 5.20 OF THE MALIBU MUNICIPAL CODE RELATED TO MOTION PICTURE, TELEVISION AND PHOTOGRAPHIC PRODUCTIONS

The City Council of the City of Malibu ordains as follows:

Section 1. Title 5, Chapter 5.20 of the Malibu Municipal Code is hereby replaced in its entirety to read as follows:

Chapter 5.20

MOTION PICTURES, TELEVISION AND PHOTOGRAPHIC PRODUCTIONS

Sections:

- 5.20.010 Short title.**
- 5.20.020 Definitions.**
- 5.20.030 Permit required.**
- 5.20.040 Permit exemptions.**
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- 5.20.060 Permit fees.**
- 5.20.070 Permit issuance—Conditions.**
- 5.20.075. Permit Revocation and Illegal Filming**
- 5.20.080 Cost of additional services.**
- 5.20.090 Insurance.**
- 5.20.100 Hold harmless agreement.**
- 5.20.110 Conditions—Restrictions.**
- 5.20.120 Cleanup/restoration.**
- 5.20.130 Administrative regulations.**

5.20.10 Short title.

This chapter shall be known as the Motion Picture, Television and Photographic Production Ordinance or the “Filming Ordinance”. (Prior code § 6600)

5.20.20 Definitions.

As used in this chapter:

“Filming Activity” Filming Activity – Includes all activities associated with a Motion Picture, Television and Photographic Production.

“Filming Day” is a day during any part of which actual filming or photography occurs. A Filming Day shall begin at 12:00 midnight and end at 11:59 p.m. “Filming Location” means the actual property or properties used for any Filming Activity, including, but not limited to, parking or base camp (cast and crew staging and feeding area).

“Motion picture, television and photographic production” means all activity attendant to staging or shooting (videotaping or filming) commercial motion pictures, television shows, programs or commercials, and to the taking of single or multiple photographs for sale or use for a commercial purpose where the photographer sets up stationary equipment on public or private property or the public right-of-way in any one location for longer than five consecutive minutes. (Prior code § 6601)

“Preparation Day” or “Prep Day” is a day preceding a Filming Day during which no filming or photography occurs at a Filming Location but where 15 or fewer people are engaged in set construction, or dressing, painting, landscaping, or rigging for stunts/special effects. “Strike days” is a day at a Filming Location during which no filming or photography occurs but where 15 or fewer people are engaged in the removal of equipment at the end of filming activities, set removal, re-painting, re-landscaping, and un-rigging from stunts/special effects.

5.20.30 Permit required.

No person shall use any public right-of-way, or any public or private property, facility or residence for the purpose of producing, taking or making any commercial motion picture, television or photographic production as defined in Section 5.20.020 without a permit issued pursuant to the provisions of this chapter. (Prior code § 6602)

5.20.40 Permit exemptions.

- A. The provisions of this chapter shall not apply to the following:
- B. Current news productions, which includes reporters, photographers or cameramen in the employment of a newspaper, news service, broadcasting station or similar entity engaged in the broadcasting of news events;
- C. Productions that are conducted by the City’s public educational and government access organizations;
- D. Productions which are conducted within legally established commercial motion picture/television/still photography studios. (Prior code § 6603)

5.20.50 Permit application.

- A. Any person desiring a permit under the provisions of this chapter shall make application on the appropriate form provided by the City Manager or his or her designee.
- B. The form must be signed and accompanied by all required fees, deposits, hold harmless agreement and insurance certificate required by this chapter before it will be processed.
- C. All coordination with Homeowner Associations, schools, and other property owners and residents is the responsibility of the permittee.
- D. (Ord. 41 § 1 (part), 1991: prior code § 6604)

5.20.55 Notification.

The City Manager or his or her designee shall notify residents within a 500' radius of a Filming Location that an application for a film permit has been received. The notice shall include contact telephone numbers for the permittee and the City. Whenever feasible, notification shall be provided at least 24 hours prior to the first day of filming. Notification is not required for still photographic productions with cast and crew of fewer than fifteen people on site.

5.20.60 Permit fees.

Each application shall be accompanied by:

- A. A processing fee in an amount established by resolution of the City Council;
- B. A daily administrative reimbursement and property use fee in an amount established by resolution of the City Council to reimburse the City for the staff time required to evaluate the application and establish conditions of approval and to monitor the activity, as well as to compensate the City for the use of public property and its unavailability for ordinary and usual purposes resulting from the Filming Activity.
- C. If the applicant cancels the permit after three p.m. on the last working day before the scheduled shoot, the City Manager or his or her designee shall assess a cancellation fee against any refund due in an amount sufficient to reimburse the City for its costs to and including the time of cancellation. If the applicant seeks to amend or modify the permit, it shall pay a rider fee in an amount determined by resolution of the City Council at the time application is made for the amendment or modification.
- D. The City Council may, by resolution, establish a penalty fee to be assessed against any person filming without a permit in violation of the provisions of this chapter. (Ord. 41 § 1 (part), 1991: prior code § 6605)

5.20.70 Permit issuance—Findings.

The City Manager or his or her designee shall issue a permit as provided for in this chapter when, from a consideration of the application and from such other information as may be otherwise obtained, he or she finds that:

- A. The conduct of such activity will not unduly interfere with traffic or pedestrian movement or endanger public safety and that no streets will be completely closed to traffic for an unreasonable period of time. Seventy-two (72) hours notice of any street closure shall be given in accordance with the provisions of Section 15.64.140 of the Traffic Ordinance (see Title 10) and no closure of any lane of Pacific Coast Highway is required;
- B. The conduct of such activity will not unduly interfere with normal governmental or City operations, threaten to result in damage or detriment to public property, or result in the City incurring costs or expenditures in either money or personnel not reimbursed in advance by the applicant;
- C. At the determination of the City Manager or his/her designee as well as the Los Angeles County sheriff's department, and Los Angeles County fire department,

that the condition of such activity will not constitute a fire hazard or any other type of hazard and all proper safety precautions will be taken as determined by the heads of the aforementioned departments or their designee. Permittee has obtained approval of the Fire Safety Advisor Coordinator if the Filming Activity involves any of the following:

- (1) Special effects
 - (2) Filming Activities occurring in native vegetation.
 - (3) Over 50 cast and crew at Filming Location.
 - (4) Refueling operations in excess of 10 gallons.
- D. If the application satisfies the criteria of this chapter, the permit shall be issued within two working days of submittal; or within four working days of submittal if the activity requires traffic control in excess of three minutes or includes stunts or special effects; or within ten (10) working days of submittal if activities require road closures. These timeframes are directory only.
- E. The decision of the City Manager to issue, conditionally issue, or not issue a permit shall be final unless appealed in writing within five working days of the decision by requesting a hearing of the Planning Commission at the next available regular meeting. (Prior code § 6606)

5.20.075. Permit Revocation and Illegal Filming

- A. Grounds. A permit may be revoked or suspended for the following reasons:
- (1) Where a Filing Location is situated in area within native vegetation and a Red Flag condition or other extreme fire danger hazard identified.
 - (2) Misrepresentation of production parameters or special effects on the permit application.
 - (3) Violation of any permit condition.
- B. Notification. The City Manager shall notify a permittee in writing of the grounds for a revocation or suspension of a permit. The permittee shall immediately cease all Filming Activity at the Filming Location, except as necessary to clear the Filming Location.
- C. Appeal. The permittee may appeal the decision of the City Manager to the Planning Commission by filing a written appeal stating the grounds, along with any required appeal fee, within 5 days of the decision. The permit is automatically suspended pending a hearing on the appeal. The appeal shall be set for hearing at the next regular meeting or at a special meeting.
- D. Illegal Filming. If a person engages in Filming Activity without a required permit, in addition to any other remedies permitted by law, no permits shall be issued to the person found engaged in the illegal Filming Activities and or for that Filming Location for a period of one year.

5.20.80 Cost of additional services.

If deemed necessary by the City Manager, additional sheriff, code enforcement, fire, and other City services shall be provided for the purpose of protecting, assisting and

regulating the proposed activity. The applicant shall pay in advance to the City the cost of providing such additional services. Any additional City services shall be provided/coordinated through the City Manager or his or her designee. (Prior code § 6607)

5.20.90 Insurance.

As a condition of issuing such a permit, the applicant shall furnish insurance in the amount to be determined by the City Manager but in no event in an amount less than one million dollars (\$1,000,000.00) to protect the City against claims of third persons for personal injury, wrongful death and property damage and to indemnify the City for damage to the City property arising out of the permittee's activities. An additional minimum of five million dollars (\$5,000,000.00) of such general liability insurance coverage shall be required in the event aircraft or helicopters are used in the activity. Such insurance shall be evidenced by the standard General Liability Special Endorsement Form mandated by the California Film Commission. Applicant shall also submit verification that adequate worker's compensation insurance coverage is maintained. (Ord. 41 § 1 (part), 1991: prior code § 6608)

5.20.100 Hold harmless agreement.

The applicant shall execute a hold harmless agreement as provided by the City prior to the issuance of any permit. (Prior code § 6609)

5.20.110 Conditions—Restrictions.

- A. The permittee shall allow for site inspections by the City and shall maintain a copy of the photography/motion picture permit on-site at all times.
- B. The permittee shall also comply with any and all conditions or restrictions the City may impose as a condition to issuing a permit. No changes in conditions or restrictions shall be made without first obtaining the approval of the City Manager or his or her designee. Minor changes to the permit may be approved by the City Manager or his or her designee prior to completion of filming in the form of a written attachment to the permit. (Ord. 41 § 1 (part), 1991: prior code § 6610)
- C. One permit may be issued for up to three filming locations. A permit may be issued for a maximum of thirty calendar days before the first day of Filming Activities. A permit is void 30 days after it is issued unless the permit contains a specific expiration date.
- D. The filming permit cannot be assigned.
- E. An approved filming permit must be posted in public view at the Filming Location.
- F. Permittees must employ an on-duty Los Angeles County Sheriff's Deputy for film shoots requiring intermittent traffic control. Intermittent traffic control on roadways is limited to three minutes maximum and shall not occur more

than once during any twenty minute period. The following conditions apply:

- (1) The permittee shall furnish and install all advance warning signs and any other required traffic control devices in conformance with the Caltrans Manual of Traffic Controls or WATCH Manual.
- (2) Traffic shall not be detoured across a double centerline without prior approval from the City.
- (3) Camera cars must drive with the flow of traffic and must not interfere with other vehicles in the road.
- (4) Stationary cameras must be mounted or secured off the roadway. If the permittee obtains prior approval, a stationary camera may be located in the traffic lane, provided all necessary lane closures are approved by the City.
- (5) No existing traffic signs shall be covered.
- (6) If a permittee wets the roadway for filming purposes, the permittee shall not strike the set until the roadway is dry to the City's satisfaction. A professional lane closure company shall be hired to install the lane closure area for the wet-down and shall maintain said closure until the roadway is dry. "Wet Pavement" signs are required at either end of the wet-down.

G. In addition to any special conditions imposed by the permit, the following restrictions shall apply to all Filming Activity:

- (1) Filming Activities may occur between the hours 7:00 a.m. and 10:00 p.m. Monday through Saturday. No Filming Activities are permitted on Sunday.
- (2) All support vehicles shall park at least 300 feet from any curve, including but not limited to staff and crew parking. Sight distance shall be maintained. All vehicles shall be parked completely off the roadway, behind the street's fog line. A walkway shall be maintained that is not in a travel lane. If sufficient parking is not available, the permittee shall provide shuttle service. All traffic control devices shall be clearly visible and located such that traffic will not back-up into blind curves.
- (3) All warning signs shall be at least 150 feet in advance of control points and parking areas.
- (4) Permittee shall post any authorized temporary "No Parking" signs at least 48 hours in advance. Sign must indicate the time and date they were posted.
- (5) No equipment or vehicles shall be parked within 25 feet of either side of a driveway.
- (6) No stairs for dressing rooms or portable restroom trailers shall be located within 6 feet of the traveled roadway and all stairs shall be parallel to the roadway.
- (7) All fire lanes shall remain open. Access to all private and public buildings shall be maintained. Intersection sight distance shall be maintained.

- (8) Any roadwork or construction by City crews and/or private contractors under permit or contract to the City shall have priority over Filming Activities.
- (9) The use of bullhorns is prohibited.
- (10) Any nudity associated with Filming Activity shall be screened from public view
- (11) No use of helicopters is allowed

H. Neighborhood specific restrictions

- (1) Malibu Canyon Road: No filming north of Civic Center Way on public property
- (2) Kanan Dume Road: No filming permitted on the weekends from April 1st to September 30th from June 1st to September 30th.
- (3) Westward Beach Road: No filming is permitted on the weekends from April 1st to June 1st or at any time from June 1st to September 30th. Parking is limited to one side of the street.
- (4) Encinal Canyon Road, Corral Canyon Road, Puerco Canyon Road & Latigo Canyon Road: No filming is permitted on the weekends from April 1st to September 30th.
- (5) Broad Beach Road: Filming requires traffic control consisting of advance warning signs stating "Road Work Ahead" with the necessary traffic cones and tapers in accordance with the WATCH manual. Two lanes of traffic must be maintained. Parking is limited to one side of the street.
- (6) Malibu Road: No parking east of 23730 Malibu Road. Parking is permitted west of the CHP office on the north side of the street if a three-foot clearance is maintained from the edge stripe. Maximum length of parking is 200 feet.
- (7) Homeowner Owners' Associations (HOA) must be notified wherever a Filming Location is located in an area with an HOA registered with the City's Film Office. A list of HOA contacts shall be provided by the City.

I. Maximum Number of Filming Days Allowed. The maximum number of Filming Days allowed at the same Filming Location for motion pictures is 16 days within the immediately prior 12-month period of the date(s) for which a film permit is sought. The maximum number of Filming Days that shall be allowed for still photographic production at the same Filming Location is 50 days within the immediately prior 12-month period of the date(s) for which a film permit is sought. The City Manager may extend the number of Filming Days for still photographic productions where the Filming Activities are contained entirely on the Filming Location and do not disrupt the neighborhood. Notwithstanding the foregoing, the City Manager or his or her designee may grant an extension to these limits in the event of acts of God or forces of nature.

J. Special effects by consent, Special effects may also be permitted by consent pursuant to subparagraph H of this Section. For the purposes of this Chapter, Special Effects refer to any Filming Activity of the type requiring a Special

Effects Permit from the Los Angeles County Fire Department or creating excessive noise within the meaning of the City's noise ordinance or using lighting outside the Filming Location.

- K. Where neighborhood consent is required (subparagraph G of this Section), signed consent forms or signed letters expressing consent of the current residents, whether they are the owner of the property or the lessee, within a 500 foot radius of the property lines of all Filming Locations is required. The applicant must obtain written consent from all residents whose properties are immediately contiguous to a Filming Location. Written consent of at least 80% of the remaining properties within the 500-foot radius is required. . If the applicant fails to obtain the required consent, the City Manager shall deny the request for extended days. The applicant may appeal the denial to the Planning Commission. Notwithstanding the lack of neighborhood consent, the Planning Commission may grant the permit if, based on the record before it, it finds the conditions in 5.20.070 are satisfied.

5.20.120 Cleanup/restoration.

The permittee shall conduct operations in an orderly fashion with continuous attention to the storage of equipment not in use, maintenance of the area and the cleanup of trash and debris. The area used shall be cleaned of trash and debris within two hours of the completion of the activity or within such other time established in the permit to the City's satisfaction. Permittee shall be responsible for restoring any area damaged or disrupted before leaving the site. If the site is not repaired or restored to the City's satisfaction, the City Manager or his or her designee shall have the necessary restoration and/or repairs performed and permittee shall reimburse City for such work within ten (10) days of completing filming. In the event permittee fails to so reimburse City, City may secure its reimbursement from either a cash or surety bond which shall, if required by the City, be posted with the City to ensure faithful performance of such restoration. Such faithful performance bond shall, if required by the City, be filed at the time of the application in an amount of five hundred dollars (\$500.00) or in any higher amount determined by the City Manager or his or her designee to be reasonably required under the circumstances. The amount of the bond shall in no way limit the permittee's liability or responsibility for the costs of repairs or restoration in the event these costs exceed the bond amount. (Ord. 41 § 1 (part), 1991: prior code § 6611)

5.20.130 Administrative regulations.

The City Manager and his or her designee is authorized to promulgate and enforce administrative regulations in the implementation and enforcement of this chapter. (Prior code § 6612)

Section 2. The City Clerk shall certify the adoption of this ordinance.

PASSED, APPROVED, AND ADOPTED _____, 2005.

ANDY STERN, MAYOR

ATTEST:

LISA POPE, CITY CLERK
(seal)

APPROVED AS TO FORM:

CHRISTI HOGIN, CITY ATTORNEY